

SUPREME COURT OF LOUISIANA

NO. 2017-B-1704

IN RE: DOUNNISEI KUO GBALAZEH

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Dounnisei Kuo Gbalazeh, an attorney licensed to practice law in Louisiana but currently ineligible to practice.<sup>1</sup>

**FORMAL CHARGES**

In January 2009, the ODC learned that the Baton Rouge Police Department had issued an arrest warrant against respondent. In February 2009, the ODC sent respondent notice of the associated disciplinary complaint to her primary bar registration address. The certified mail was returned marked “unable to forward.” On March 5, 2009, the ODC spoke with respondent and advised her of the pending complaint. The ODC also advised respondent that her sworn statement had been scheduled for March 10, 2009. Although respondent verbally agreed to appear for the sworn statement, she failed to do so. The criminal charge was later dismissed, but respondent has never responded to the complaint.

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<sup>1</sup> Respondent has been ineligible to practice law since October 1, 2008 for failing to failing to pay her bar dues and the disciplinary assessment. She is also ineligible to practice law for failing to file her trust account disclosure statement and for failing to comply with the mandatory continuing legal education requirements.

After respondent was declared ineligible to practice law in Louisiana, the only state in which she is licensed to practice law, she was indefinitely suspended by the Board of Immigration Appeals (“BIA”) on June 10, 2014. Thereafter, on two separate occasions (July 10, 2014 and May 20, 2015), respondent attempted to enroll as counsel of record for an immigration client by submitting a signed Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) to the Department of Homeland Security at a time when she was neither eligible to practice law in Louisiana nor authorized to practice as an attorney before the Immigration Courts. The ODC sent respondent notice of the associated disciplinary complaint in June 2015, but she has never responded to the complaint.

### **DISCIPLINARY PROCEEDINGS**

In February 2016, the ODC filed formal charges against respondent, alleging that her conduct, as set forth above, violated the following provisions of the Rules of Professional Conduct: Rules 5.5 (engaging in the unauthorized practice of law), 8.1(c) (failure to cooperate with the ODC in its investigation), and 8.4(a) (violation of the Rules of Professional Conduct.)

Respondent failed to answer the formal charges. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, § 11(E)(3). No formal hearing was held, but the parties were given an opportunity to file with the hearing committee written arguments and documentary evidence on the issue of sanctions. Respondent filed nothing for the hearing committee’s consideration.

#### *Hearing Committee Report*

After considering the ODC’s deemed admitted submission, the hearing committee determined that the factual allegations in the formal charges were deemed

admitted and proven by clear and convincing evidence. Based on these facts, the committee determined respondent violated the Rules of Professional Conduct as alleged in the formal charges.

The committee determined that respondent violated duties owed to her clients, the public, and the legal profession. Her actions were intentional because after she was suspended from practicing before the BIA, she attempted to enter an appearance as attorney of record in proceedings before that agency. She caused actual harm to her clients by delaying the immigration proceedings, to the courts by wasting judicial resources, and to the public by eroding confidence and trust in the legal profession and the legal system. Under the ABA's *Standards for Imposing Lawyer Sanctions*, the baseline sanction is suspension.

In aggravation, the committee found a dishonest or selfish motive, multiple offenses, and bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency. In mitigation, the committee found the absence of a prior disciplinary record and inexperience in the practice of law (admitted 2007).

After also considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for one year and one day. The committee further recommended respondent be assessed with the costs and expenses of this proceeding.

Neither respondent nor the ODC filed an objection to the hearing committee's report.

#### *Disciplinary Board Recommendation*

After review, the disciplinary board determined that the factual allegations in the formal charges were deemed admitted and proven. The board also determined that the legal conclusions of the committee are supported by the factual allegations

asserted in the formal charges and/or by the evidence submitted in support of the factual allegations. Based on these findings, the board concluded that the committee correctly applied the Rules of Professional Conduct.

The board determined that respondent knowingly, if not intentionally, violated duties owed to her clients and the legal system. Her misconduct caused actual harm to two clients who, presumably, either had to hire another lawyer or go unrepresented in their immigration matters. The board agreed with the committee that the baseline sanction is suspension.

The board also agreed with the aggravating and mitigating factors found by the committee, but rejected the finding that respondent was inexperienced in the practice of law. The board noted that respondent received her license seven years before she engaged in the unauthorized practice of law, and nothing in the record suggests that inexperience contributed to her misconduct.

After further considering this court's prior jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for one year and one day. The board further recommended respondent be assessed with the costs and expenses of this proceeding.

Neither respondent nor the ODC filed an objection to the disciplinary board's recommendation.

## **DISCUSSION**

Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art. V, § 5(B). Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence. *In re: Banks*, 09-1212 (La. 10/2/09), 18 So. 3d 57.

In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted. Supreme Court Rule XIX, § 11(E)(3). Thus, the ODC bears no additional burden to prove the factual allegations contained in the formal charges after those charges have been deemed admitted. However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations. If the legal conclusion the ODC seeks to prove (i.e., a violation of a specific rule) is not readily apparent from the deemed admitted facts, additional evidence may need to be submitted in order to prove the legal conclusions that flow from the admitted factual allegations. *In re: Donnan*, 01-3058 (La. 1/10/03), 838 So. 2d 715.

The evidence in the record of this deemed admitted matter supports a finding that respondent practiced law on two occasions by seeking to enroll as counsel on behalf of immigration clients while she was ineligible to practice law. She also failed to cooperate with the ODC in the investigation of two disciplinary complaints against her. As such, she has violated Rules 5.5, 8.1(c), and 8.4(a) of the Rules of Professional Conduct.

Having found evidence of professional misconduct, we now turn to a determination of the appropriate sanction for respondent's actions. In determining a sanction, we are mindful that disciplinary proceedings are designed to maintain high standards of conduct, protect the public, preserve the integrity of the profession, and deter future misconduct. *Louisiana State Bar Ass'n v. Reis*, 513 So. 2d 1173 (La. 1987). The discipline to be imposed depends upon the facts of each case and the seriousness of the offenses involved considered in light of any aggravating and mitigating circumstances. *Louisiana State Bar Ass'n v. Whittington*, 459 So. 2d 520 (La. 1984).

Respondent knowingly, if not intentionally, violated duties owed to her clients and the legal system, causing actual harm. Under the ABA's *Standards for Imposing*

*Lawyer Sanctions*, the applicable baseline sanction is suspension. The aggravating and mitigating factors found by the disciplinary board are supported by the record.

In prior cases involving the practice of law by attorneys who are ineligible to do so, we have imposed sanctions ranging from suspension to disbarment, with the baseline sanction generally being a suspension of one year and one day. *See In re: Hardy*, 03-0443 (La. 5/2/03), 848 So. 2d 511. In *In re: Johnson*, 09-0057 (La. 5/22/09), 9 So. 3d 835, we disciplined a lawyer whose misconduct was very similar to respondent's herein. Ms. Johnson represented a client in a domestic matter after she notified the bar association that she wished to assume inactive status. Thereafter, she failed to cooperate with the ODC in its investigation of the complaint filed against her. There were several aggravating factors present, and the sole mitigating factor was Ms. Johnson's lack of a prior disciplinary record. Under these circumstances, we imposed a one year and one day suspension from the practice of law.

Like Ms. Johnson, respondent was not eligible to practice law when she attempted to enroll as counsel of record on behalf of two immigration clients. Thereafter, she failed to cooperate with the ODC in its investigation of the complaint filed against her in that matter, as well as in an unrelated matter. There are several aggravating factors present, and the sole mitigating factor is the lack of a prior disciplinary record.

Given these facts, and our prior decision in *Johnson*, we will adopt the disciplinary board's recommendation and suspend respondent from the practice of law for one year and one day.

## **DECREE**

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record, it is ordered that Dounnisei Kuo

Gbalazeh, Louisiana Bar Roll number 30896, be and she hereby is suspended from the practice of law for one year and one day. All costs and expenses in the matter are assessed against respondent in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.